

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Randy King,)	
)	
Plaintiff,)	Civil Action No.: 3:18-cv-01792-JMC
)	
v.)	
)	
Heather Wilson, <i>Secretary of the Air Force</i> ,)	ORDER
)	
Defendant. ¹)	
_____)	

This matter is before the court for review of the Magistrate Judge’s Report and Recommendation (“Report”) filed on July 10, 2018 (ECF No. 10). The court **ACCEPTS** the Magistrate Judge’s Report and incorporates it herein by reference. For the reasons set out in the Report, the court **DENIES** Plaintiff Randy King’s (“Plaintiff”) Motion to proceed in forma pauperis (ECF No. 3).

I. FACTUAL AND PROCEDURAL BACKGROUND

The Report sets forth the relevant facts and legal standards, which this court incorporates herein without a full recitation. (ECF No. 16 at 1–4.) As brief background, on June 29, 2018, Plaintiff filed his Complaint against Defendant Heather Wilson (“Defendant”), alleging employment discrimination in violation of several federal statutes. (ECF No. 1 at 3, 5–6.) Along with his Complaint, Plaintiff filed a Form AO 240, titled “Application to Proceed in District Court

¹ In his Complaint, Plaintiff Randy King listed Defendant Heather Wilson as “Secretary Department of the Air Force.” (ECF No. 1 at 2.) In the Magistrate Judge’s Report and Recommendation, the Magistrate Judge listed Defendant Heather Wilson as “Secretary Department of Defense.” (ECF No. 10 at 1.) Defendant Heather Wilson is the Secretary of the Air Force. *See Heather Wilson*, U.S. Air Force, <https://www.af.mil/About-Us/Biographies/Display/Article/1183103/dr-heather-wilson/> (last visited Jan. 9, 2019). Therefore, the court has corrected the caption of this case to reflect Defendant Heather Wilson’s correct title—Secretary of the Air Force—and directs the Clerk of Court to do the same on the docket.

Without Prepaying Fees or Costs,” (ECF No. 3), which the Magistrate Judge construed as a Motion to proceed in forma pauperis under 28 U.S.C. § 1915. (ECF No. 10 at 1.)

On June 10, 2018, the Magistrate Judge entered her Report. (*Id.*) The Magistrate Judge recommended denying Plaintiff’s Motion to proceed in forma pauperis, finding that,

Plaintiff would not be rendered destitute by being required to pay the filing costs of \$400 (which includes the \$50 administrative fee), nor is there any indication that requiring payment of these costs would impose an undue hardship or effectively block Plaintiff’s access to the courts. In his [M]otion [to proceed in forma pauperis], Plaintiff indicates that he is retired and his take-home pay is \$4,220 per month. He indicates that he has \$200 in bank accounts. He lists \$265,100 in assets of value and \$5,761 in monthly expenses.

(*Id.* at 2.) The Magistrate Judge further stated that,

If the district judge accepts this recommendation, Plaintiff will have fourteen days from the date of the order denying *in forma pauperis* status to submit the required filing fee. If Plaintiff fails to pay the filing fee within the specified time period[,] it is recommended that the case be dismissed without prejudice.

(*Id.*) Finally, the Magistrate Judge’s Report informed the parties of their right to file objections to the Report within fourteen (14) days of the date of service of the Report. (*Id.* at 3–4.) The Report was mailed to Plaintiff on July 10, 2018. (ECF No. 11.) Neither Plaintiff nor Defendant filed any objections to the Report.

Also on July 10, 2018, the Magistrate Judge issued a Proper Form Order, directing Plaintiff “to complete a standard complaint form for employment discrimination actions.” (ECF No. 9 at 1.) On July 30, 2018, Plaintiff filed an Amended Complaint. (ECF No. 14.)

II. STANDARD OF REVIEW

The Magistrate Judge’s Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District Court of South Carolina. The Magistrate Judge only makes a recommendation to this court; the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). This court is

engages in a *de novo* review of those portions of the Report and Recommendation to which the parties have made specific objections; the court may accept, reject or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

III. DISCUSSION

On July 10, 2018, as part of the Report, the Magistrate Judge notified the parties of their right to file objections by July 24, 2018. (ECF No. 10 at 3–4.) Neither of the parties filed any objections to the Report by this date. In the absence of objections to the Magistrate Judge's Report, this court is not required to provide an explanation for adopting the recommendation without modification. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Absent objections, the court must only ensure that there is no clear error on the face of the record in order to accept the recommendation. *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). If a party fails to file specific, written objections to the Report, the party forfeits the right to appeal the District Court's decision concerning the Report. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984). Accordingly, since none of the parties filed any objections to the Report, and the court observes no clear error on the face of the record, the court accepts the Magistrate Judge's Report. *See Diamond*, 416 F.3d at 315; *Camby*, 718 F.2d at 199.

IV. CONCLUSION

After a thorough and careful review of the record, the court finds the Magistrate Judge's Report and Recommendation provides an accurate summary of the facts and law in this case. The court **ACCEPTS** the Magistrate Judge's Report and Recommendation (ECF No. 10) and incorporates it herein by reference. For the reasons set out in the Report, the court **DENIES**

Plaintiff's Motion to proceed in forma pauperis (ECF No. 3). Plaintiff will have fourteen (14) days from the date of this Order to submit the required filing fee. If Plaintiff fails to pay the filing fee within the specified time period, the court will dismiss this case without prejudice.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

January 10, 2019
Columbia, South Carolina